

Section 58

PLAN APPEALS PROCEDURE

Sections:

58.010	Definitions.
58.020	Application of appeal procedures.
58.030	Appeal of final decision permitted.
58.040	Filing of notice of appeal.
58.050	Notice of appeal.
58.060	Record on appeal.
58.070	Scheduling of the hearing.
58.080	Procedure of the hearing.
58.090	Alternative actions available to the appellate body.

58.010 Definitions.

The following words, terms and phrases, when used in this section, shall have the following meanings:

"Aggrieved person" means a person who has a specific, personal and legal interest in the final decision of an agency, board or commission, as distinguished from a general interest such as is the concern of all members of the community, and which interest would be specifically and personally prejudiced by the decision or benefited by its reversal.

"Appellant" means an aggrieved person who has taken an appeal from an agency, board or commission to another body designated herein by the filing of a notice of appeal.

"Applicant" means the person who or organization which submitted the application to the agency, board or commission whose decision has been appealed.

"Final decision" means the final action of an agency, board or commission when no further action is available before such agency, board or commission.

58.020 Application of appeal procedures.

Appeals from agencies, boards and commissions to other agencies, boards and commissions of county government or the courts are set forth in the various sections of this title. Said appeals are permitted under the provisions of this section in the manner set forth herein.

A. Boards and Agencies. These appeal procedures shall apply to the decisions brought forth by the following:

1. Planning board;
2. Staff.

B. Order of Appeals. Appeals from any board or agency shall follow the following order:

1. Staff to commission;
2. Planning Board to commission.

58.030 Appeal of final decision permitted.

An aggrieved person may appeal the final decision of any agency, board or commission to which this appeal procedure applies in the manner provided in this section.

58.040 Filing of notice of appeal.

A. An appeal shall be taken by filing with the planning director a notice of intent to appeal by noon on the Friday following the final decision of the agency, board or commission to which this section applies, and a documented appeal within seven (7) calendar days of the final decision of the agency, board or commission to which this section applies. Such notice of intent to appeal shall include the following:

1. The action of the agency, board or commission which is the subject of the appeal;
2. The date of such action;
3. The name, address, telephone number and relationship of the appellant to the subject of the action of the agency, board or commission.

B. The documented appeal shall include in addition, the grounds for the appeal, including specific allegations to be considered on appeal.

58.050 Notice of appeal.

Notification of appeal procedures shall be included in the initial posting and notice of the proposal, provided that an initial posting and notice is required by Section 52. Once a documented appeal has been filed, the property in question will be posted and notice of the appeal hearing provided to a newspaper published and having general circulation in the county.

Amended Resolution 2001-09

58.060 Record on appeal.

Any appeal shall be an appeal on the record of the hearing before the agency, board or commission. The record provided to the appeal body shall include the following:

A. Detailed minutes of the proceedings before the agency, board or commission from which the appeal has been taken;

B. All exhibits, including, without limitation, all writings, drawings, maps, charts, graphs, photographs and other tangible items received or viewed by the agency, board or commission at the proceedings;

C. A verbatim transcript of such proceedings before the agency, board or commission, or any portion thereof, at the option and expense of any aggrieved party.

58.070 Scheduling of the hearing.

The dates, times and locations for hearing appeal(s) before the appropriate body(s) shall be included in the reposting of the property in question, and in the notice of the appeal hearing provided to a newspaper published and having general circulation in the county.

Amended Resolution 2001-09

58.080 Procedure of the hearing.

A. At the hearing on the appeal, the following procedure shall be followed: Only arguments and evidence relevant to the grounds shall be presented. The presentation of arguments on the merits of the appeal shall be made in the following order, subject to such limitations, in time and scope as may be imposed at the discretion of the presiding officer:

1. Explanation of the nature of the appeal and presentation by planning staff,
2. Presentation of argument by the appellant and any person in support of the appellant;
3. Presentation or argument by any person who is an opponent of the appeal; and
4. Motion, discussion and vote by the appellate body.

B. No person making a presentation shall be subject to cross-examination except that members of the appellate body and the county attorney may inquire of such person for the purpose of eliciting information and for the purpose of clarifying information presented.

58.090 Alternative actions available to the appellate body.

The appellate body shall consider an appeal based upon the record on appeal and relevant provisions of this title. Only evidence relevant to the grounds for the appeal shall be heard. At the conclusion of such hearing, the appellate body shall uphold, overturn or modify the decision of the agency or board. Appeals will be granted upon finding that such order, requirement, decision or determination made by the agency or board is erroneous and contrary to this title or of any regulation adopted pursuant thereto.